

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

CHRISTA CARTER CHAMPION

VS.

STATE FARM COMPANIES, STATE FARM COUNTY MUTUAL INSURANCE COMPANY OF TEXAS, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, AND STATE FARM FIRE AND CASUALTY COMPANY

CASE NO. 5:16-CV-3
(Jury)

DEFENDANTS STATE FARM COUNTY MUTUAL INSURANCE COMPANY OF TEXAS, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY AND STATE FARM FIRE AND CASUALTY COMPANY'S MOTION PURSUANT TO RULE 12(b)(6) AND ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, State Farm County Mutual Insurance Company of Texas, State Farm Mutual Automobile Insurance Company and State Farm Fire and Casualty Company, Defendants in the above styled and numbered cause, and files this their Motion Pursuant to Rule 12(b)(6) and Original Answer to Plaintiff's pleadings on file herein, and for such answer would respectfully show unto the Court as follows:

I.

Motion for Judgment on the Pleadings Pursuant to Fed. R. Civ. P. 12(b)(6)

Defendants move for judgment on the pleadings as Plaintiff has failed to state a claim upon which relief can be granted. Plaintiff's Original Petition establishes that the policy of insurance which is the subject of this dispute was issued by State Farm Lloyds, incorrectly identified as State Farm Companies. Defendants State Farm County Mutual Insurance Company of Texas, State Farm Mutual Automobile Insurance Company and State Farm Fire and Casualty Company did not issue the policy or maintain any relationship whatsoever to the policy of insurance which is at issue. Accordingly, Defendants move that they be dismissed from this action.

II.

Original Answer

1. The allegations of Paragraph 1 of Plaintiff's Original Petition are denied.
2. The allegations of Paragraph 2 of Plaintiff's Original Petition are admitted as to Plaintiff, but are denied as to Defendants.
3. The allegations of Paragraph 3 of Plaintiff's Original Petition are denied as to alleged breach of contract and statutory violations, however the remaining allegations are admitted.
4. The allegations of Paragraph 4 of Plaintiff's Original Petition are denied.
5. The allegations of Paragraph 5 of Plaintiff's Original Petition are neither admitted nor denied for lack of sufficient information to justify belief, but admit that the amount in controversy satisfies the Court's jurisdictional requirements.
6. The allegations of Paragraph 6 of Plaintiff's Original Petition are denied to the extent Defendants herein did not issue the insurance policy at issue in this case.
7. The allegations of Paragraph 7 of Plaintiff's Original Petition are denied.
8. The allegations of Paragraph 8 of Plaintiff's Original Petition are denied.
9. The allegations of Paragraph 9, including items A thru C, of Plaintiff's Original Petition are denied.
10. The allegations of Paragraph 10 of Plaintiff's Original Petition are denied.
11. The allegations of Paragraph 11 of Plaintiff's Original Petition are admitted.
12. Plaintiff has failed to state a claim upon which relief may be granted.

AFFIRMATIVE DEFENSES

13. Defendants State Farm County Mutual Insurance Company of Texas, State Farm Mutual Automobile Insurance Company and State Farm Fire and Casualty Company are not liable in the capacity sued.

14. Defendants State Farm County Mutual Insurance Company of Texas, State Farm Mutual Automobile Insurance Company and State Farm Fire and Casualty Company have no contractual relationship with Plaintiff concerning the subject matter of this action.

15. Defendant requests a jury trial in the above entitled and numbered action.

WHEREFORE, PREMISES CONSIDERED, Defendants State Farm County Mutual Insurance Company of Texas, State Farm Mutual Automobile Insurance Company and State Farm Fire and Casualty Company pray that upon final hearing hereon Plaintiff take nothing by reason of her suit; that Defendants recover their costs in this behalf expended; and that they have such other and further relief, whether at law or in equity, to which they may show themselves to be justly entitled.

Respectfully submitted,

BOYD & BOYD

BY: /s/ Paul M. Boyd
PAUL M. BOYD
State Bar No. 02775700
1215 Pruitt Place
Tyler, Texas 75703
903/526-9000
903/526-9001 (FAX)
boydpc@tyler.net

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on this the 12th day of January, 2016, a true and correct copy of the above and foregoing instrument was forwarded via electronic means to:

Ms. Christa Carter Champion
6078A Averill Way
Dallas, Texas 75225
[PRO SE PLAINTIFF]

/s/ Paul M. Boyd
PAUL M. BOYD